

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JY

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/495, 448 01/31/00 LAU

L 287758/36072

EXAMINER

HM22/0509

Marshall O Toole Gerstein
Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago IL 60606-6402

WOITACH, J

ART UNIT PAPER NUMBER

1632

DATE MAILED:

05/09/01

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/495,448	Applicant(s) Lau, L.F.
	Examiner Joseph T. Woitach	Art Unit 1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4) Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims 1-23 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____

DETAILED ACTION

This application is continuation in part of 9/142,569, filed April 2, 1999, which is a 371 filing of PCT/US97/04193, filed March 14, 1997, which claims benefit to application 60/013,958, filed March 15, 1996.

Claims 1-23 are pending and currently under examination.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3 and 17 drawn to a method of screening for a modulator of cell adhesion, classified in class 435, subclass 7.1.
- II. Claims 4-8, drawn to a method of screening for a modulator of cell migration, classified in class 435, subclass 7.1.
- III. Claims 9-11, drawn to a method of screening for a modulator of fibroblast proliferation, classified in class 435, subclass 7.1.
- IV. Claim 12, drawn to a method of screening for a modulator of angiogenesis comprising contacting endothelial cells comprising a *cyr61* allele, classified in class 435, subclass 6.
- V. Claim 13, drawn to a method of screening for a modulator of angiogenesis comprising contacting endothelial cells with a polypeptide, classified in class 435, subclass 7.1.

Art Unit: 1632

- VI. Claim 14, drawn to a method of screening for modulators of angiogenesis comprising contacting a transgenic animal with a polypeptide, classified in class 800, subclass 3.
- VII. Claims 15-16, drawn to a method of screening for modulators of wound healing comprising contacting activated platelets with a polypeptide, classified in class 435, subclass 7.1.
- VIII. Claims 18-23, drawn to mammalian cell comprising a *cyr61* mutation, classified in class 435, subclass 325.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions encompass six different and distinct methods. Each of the methods require different materials to practice and different method steps which all result in materially different effects/outcomes. For example, the method of group I measures cell adhesion and uses extracellular matrix related molecules/polypeptides of Cyr61. The method of group II measures cell migration and specifically seeds cells on $\alpha 6\beta 1$ integrin. The method of group III measures proliferation. The methods of groups IV-VI all measure angiogenesis, however group IV uses cells which have a *cyr61* allele and comprises testing any type of modulator, group V uses any

Art Unit: 1632

endothelial cell and comprises contacting the cell with specific polypeptides, and the method of group VI screens for modulator in a transgenic animal. The method of group VII measures wound healing and comprises contacting activated platelet with polypeptides from the CCN family. Each of the separate methods require different materials to practice and different method steps for measuring the expected effect.

Inventions VIII and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the mammalian cell containing a *cyr61* mutation of group VIII can be used to study physiological effects related to cell adhesion, cell migration or cell proliferation.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group I is not required for Groups II-VIII, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 1632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (703)305-3732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karen M. Hauda, can be reached at (703)305-6608.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist Kay Pickney whose telephone number is (703)306-3076.

Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703)308-4242 and (703)305-3014.

Joseph T. Woitach

Scott D. Priebe

SCOTT D. PRIEBE, PH.D
PRIMARY EXAMINER